

DOCKET SECTION

**UNITED STATES OF AMERICA
BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001**

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In the Matter of

Postal Rate and Fee Changes, 1997

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Docket No. R97-1
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**INITIAL BRIEF OF
THE BROOKLYN UNION GAS COMPANY
ON
PREPAID REPLY MAIL**

The Brooklyn Union Gas Company

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**Dated: April 1, 1998
Washington, D.C.**

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Pursuant to the revised procedural schedule in this case, The Brooklyn Union Gas Company ("Brooklyn Union") hereby submits its initial brief on the United States Postal Service's ("Postal Service") proposal to implement a new rate category for Prepaid Reply Mail ("PRM"). For the reasons set out below, Brooklyn Union urges the Commission to approve the Postal Service's PRM proposal, subject to the following conditions and modifications:

- (1) the Postal Service's PRM proposal should be considered and approved *separately and apart from* other proposals made in this proceeding; in particular, the PRM proposal must not be tied to or linked with the Office of Consumer Advocate's ("OCA") proposal for Courtesy Envelope Mail ("CEM");
- (2) the cumbersome accounting procedure proposed by the Postal Service for PRM should be rejected in favor of a simpler mechanism modeled on the existing accounting procedure for BRMAS BRM recipients; and
- (3) the Commission should require that prepaid mail pieces be addressed to post office box, to assure that the Postal Service maximizes the cost savings made possible by this highly efficient type of mail.

BACKGROUND

Brooklyn Union is a large utility mailer that provides natural gas service to approximately 4 million consumers in New York City. For over twenty years, Brooklyn Union has paid the postage on customer payment remittances by enclosing Business Reply Mail ("BRM") envelopes along with the bills for gas service that are sent to customers periodically. When the Postal Service instituted the automated Business Reply Mail Accounting System ("BRMAS"), Brooklyn Union began enclosing BRMAS envelopes with its customer bills. If the Commission recommends and the Board of Governors accepts and implements the PRM reply mail program, Brooklyn Union stands ready, willing, and able to convert its payment remittance envelopes from BRMAS BRM to PRM.

STATEMENT OF THE CASE

In this case, the Postal Service is proposing to implement a new PRM rate category for participating prepaid mail recipients. Under the Postal Service's proposal, reply mail recipients who elect to participate in the PRM program would (a) prepay postage for the expected amount of PRM mail returns, (b) perform the counting, rating, and billing functions normally performed by Postal Service personnel, (c) agree to appropriate audit procedures that will assure that the Postal Service receives the correct amount of postage, and (d) pay a monthly fee of \$1,000 to cover the Postal Service's costs associated with the auditing and accounting functions. In return, the PRM recipient would pay a rate of 30 cents per piece on each PRM envelope received, 3 cents less than the Postal Service's proposed rate for non-presorted First-Class letters. See, USPS-T-32 at 5-6, 37-48 and USPS-T-23.

Brooklyn Union witness Richard E. Bentley¹ generally endorsed the Postal Service's PRM proposal and recommended that it be adopted with certain modifications. Mr. Bentley first verified the cost savings attributes that the Postal Service identified as the basis for proposing a 30 cent PRM rate – automation-compatible pieces that are prebarcoded. Next, Mr. Bentley identified additional mail processing cost savings that will be achieved by virtue of the fact that PRM, unlike QBRM or CRM, will always be received in relatively large quantities.² He concluded that "the cost to process and deliver [PRM] reply letters is comparable to, if not less than, the cost of processing and delivering a First-Class Automation letter." Tr. 21/11086. Mr. Bentley made an analysis of the relevant processing operations and related costs. He found, among other things, that PRM will contribute over 6 cents more per piece to institutional costs than First-Class Automation Mail, and over 8 cents more per piece to institutional costs than an average First-Class letter. Based on these analyses, he concluded that "the logic and fairness for charging a reduced rate of 30 cents [for PRM reply mail pieces] becomes abundantly clear."³

¹ Mr. Bentley is the President of Marketing Designs, Inc., a marketing and consulting firm. Mr. Bentley has wide and varied experience in postal matters, having testified in Postal Rate Commission proceedings both when he served as a member of the Officer of the Commission's technical staff and as a private consultant. See, Tr. 21/11079, 11093-97. Of particular significance for this proceeding, Mr. Bentley has substantial experience with issues involving the determination of appropriate rates for reply mail services, including BRMAS BRM. *Id.*

² As Mr. Bentley pointed out, the absolute minimum breakeven volume for PRM is 200,000 pieces per year. In reality, however, that minimum volume will have to be much higher to make joining the PRM program economically feasible for potential PRM recipients. See, Tr. 21/11084, footnote 3.

³ Tr. 21/11088; 21/11098-11102.

While Mr. Bentley endorsed the main features of the Postal Service's PRM proposal, he did recommend certain minor changes designed to make the program more "user friendly" and to assure that PRM cost savings are maximized in practice. First, he proposed that the relatively complicated accounting procedures proposed for PRM by the Postal Service be replaced with the much simpler accounting procedures utilized for BRMAS BRM. See, Tr. 21/11089-91. This modification is a reasonable one, he concluded, because at least initially, large BRMAS BRM users like Brooklyn Union will be the prime candidates for the new PRM program. Tr. 21/11128. In conjunction with this recommendation, Mr. Bentley also recommended that the name "Prepaid Reply Mail" be changed to "Bulk Automated Reply Mail" to better reflect the true nature of this service as an outgrowth of BRM and to avoid confusion. Second, he recommended that PRM reply mail recipients be required to have their mail addressed to a post office box so as to secure delivery cost savings of approximately 4 cents per piece. See, Tr. 21/11082, 11085, 11091.

ARGUMENT

The Postal Service's PRM proposal is an important, welcome initiative to provide prepaid reply mail recipients more choices in the types of services offered. Brooklyn Union supports the central principles that underlie the Postal Service's PRM initiative in this proceeding:

- offering new, more flexible service options to mailers where the facts and circumstances warrant such offerings; and
- implementing rates that more closely reflect the costs of

relevant services, such as PRM.

In addition, Brooklyn Union specifically endorses the Postal Service's proposals for the mailer pre-certification program for determining postage due and the proposed \$1,000 per month fee related to Postal Service auditing of accounting procedures performed by the PRM mail recipient. Indeed, as discussed more fully below, there are only two relatively minor modifications to the Postal Service's PRM proposal that the Commission should consider: (1) postage should be paid on PRM reply letters as and when they are received, rather than through the Postal Service's cumbersome proposal to have PRM postage "prepaid" based on estimated return quantities, and (2) PRM reply letters should be required to be addressed to a post office box to insure that such pieces will avoid the Service's carrier delivery system and the higher unit costs associated with that system.

I. The PRM Proposal Should Be Considered And Approved Separately

The PRM proposal that the Postal Service has made in this case is a unique, innovative proposal that stands by itself. As such, it can and should be *separately* considered and approved by the Commission.

The Postal Service has proposed a 30 cent First-Class Mail rate for two types of reply mail: Prepaid Reply Mail and Qualified Business Reply Mail. Although both PRM and QBRM are direct derivatives of the current BRM service,⁴ these are two distinct service offerings by the Postal Service. QBRM recipients will still depend upon

⁴ As the testimony of USPS witnesses Fronk and Needham indicates, reply mail pieces received by existing large BRMAS BRM recipients constitute a large part of the potential market for the new PRM service. See, USPS-T32 at 42-43; USPS-T-39.

Postal Service personnel to count and rate their QBRM reply pieces and determine the postage due, an additional service for which they will pay 6 cents per piece. PRM recipients, by contrast, will assume primary responsibility for counting and rating their return mail pieces and determining the postage due, subject to client-specific auditing procedures prescribed by the Postal Service.⁵

Furthermore, while the PRM and QBRM letter pieces do exhibit the same cost sparing attributes as measured by the Postal Service witnesses, there are important differences between the cost savings that these two types of mail exhibit. As discussed in the following section, the fact that PRM reply mail pieces will, *by definition*, be received in bulk quantities means that PRM will be able to achieve substantial *additional* cost savings that average QBRM pieces likely will not achieve.

In this case the OCA also has proposed a 30 cent First-Class Mail rate for CEM reply mail pieces, based in part on witness Willette's perception that "[t]he cost study prepared by Postal Service witness Miller for PRM/QBRM letters is applicable to CEM."⁶ Once again, there are substantial differences between PRM and CEM as envisaged by the OCA. First, we know that all PRM reply mail will consistently exhibit a dense delivery pattern whereas the same cannot be said of CEM. In this regard, OCA witness Willette recognized that density patterns directly affect mail processing costs.⁷ As Ms. Willette testified, "[i]f you're asking to the extent that one –there's a large volume

⁵ Although PRM recipients will not pay a per piece fee as QBRM recipients do, they will pay a monthly fee of \$1,000 to cover auditing expenses incurred by the Postal Service.

⁶ TR. 21/10685 (footnote omitted).

⁷ Tr. 21/10761-62.

[of mail] going to one recipient, I think that would be a *major* determinant, yes, of avoiding those processing [operations]. Tr. 21/10763 (emphasis added). As Ms. Willette also recognized, unlike PRM for which there is, by definition, a high minimum volume requirement, there would be no minimum quantity for qualifying CEM. Tr. 21/10760-61, 10775.

In addition, OCA witness Willette considers the PRM and CEM proposals to be two *separate* and distinct proposals, not competing proposals. As Ms. Willette testified in responding to the Presiding Officer's suggestion that the OCA's CEM proposal is a "counter offer" to PRM:

Well, they are two very different services. We haven't taken a specific position on PRM, because it is very different from CEM.⁸

For all these reasons, despite superficial similarities between and among the PRM, QBRM,⁹ and CEM proposals, there are important factual distinctions between these proposals which require that each proposal be considered separately and approved or rejected on its own unique characteristics.

There is another important reason why the Commission should consider and act on the PRM and CEM proposals separately. This is not the first time that a reduced rate has been proposed for bulk reply mail. In Docket No. R90-1, Brooklyn

⁸ Tr. 21/10797.

⁹ As discussed further in section V, however, the costs used by the Postal Service to support its QBRM per piece fee of 6 cents necessarily reflect a migration of the most efficient BRMAS BRM pieces to PRM. To this extent, therefore, there is a significant relationship between PRM and QBRM. The Commission cannot ignore that relationship when it rules on the Postal Service's PRM and QBRM proposals.

Union proposed that BRMAS BRM reply letters received in bulk be entitled to a rate 3 cents below the otherwise applicable First-Class letter rate. In that case, the Commission did not deal directly with Brooklyn Union's proposal because it found that "[o]ur [Public Automation Rate] recommendation will have the effect of providing BRMAS letter mail pieces with a 2-cent pre-barcode discount from First-Class postage."¹⁰ In effect, the Commission intended to give BRMAS letters a portion of the cost savings Brooklyn Union had identified by making BRMAS letters eligible for the special PAR rate it recommended. In retrospect, tying the BRMAS reply letter discount to the PAR rate was not helpful and resulted in a disservice to BRMAS BRM recipients. Although the Board of Governors "accepted" the Commission's PAR rate, the Postal Service appealed that portion of the Commission's decision and deferred indefinitely the actual implementation of the PAR rate.¹¹ Ultimately, the United States Court of Appeals for the District of Columbia Circuit ruled in favor of the Service for reasons that had nothing to do with BRMAS letter mail pieces. *Mail Order Ass'n of America v. U.S. Postal Service*, 2 F. 3d 408, 416-425 (D.C. Cir. 1993). Nevertheless, the fact that implementation of the BRMAS discount was inextricably linked with the outcome of the Postal Service's appeal of the PAR rate recommendation doomed the BRMAS discount from the beginning.

In this case, the OCA's CEM rate proposal has occasioned vigorous opposition by the Postal Service. Brooklyn Union takes no position on CEM.

¹⁰ Opinion R90-1 at V-434.

¹¹ The reasons provided to support the Postal Service's appeal concerned administration of the PAR rate for the general public, concerns that did not in any way implicate BRMAS BRM.

Nevertheless, Brooklyn Union is concerned that the Commission not link the fate of the independently justified PRM program with that of the OCA's CEM proposal, as it did with BRMAS BRM and the PAR rate in Docket No. R90-1. Fortunately, in this case the record clearly demonstrates that CEM and PRM are *distinct* proposals that warrant *separate* consideration by the Commission.

For all of the foregoing reasons, the Commission should consider and act upon PRM separately and apart from any action it may take with respect to CEM.

**II. The Proposed First-Class Mail Rate
For PRM Is Amply Supported By
Uncontroverted Costing Analyses**

The Postal Service is proposing a 30 cent per piece rate for PRM and QBRM.¹² The purpose of these new rates is to have postage charges more accurately reflect the costs involved in processing and delivering these types of very efficient mail. The Postal Service's proposed 30 cent First-Class rate for PRM and QBRM is based on the savings associated with processing automation-compatible letters that are prebarcoded.¹³

As Brooklyn Union witness Bentley observes, however, the PRM concept "takes reply mail cost savings one step further."¹⁴ While the primary purpose of the \$1,000 per month PRM fee is to cover the Postal Service's cost of establishing and

¹² Tr. 21/11082-83.

¹³ Tr. 21/11083-84.

¹⁴ *Id.*

maintaining adequate auditing procedures, the fee also has the added benefit of insuring that PRM mail will be received in bulk quantities.¹⁵

The benefits of guaranteed high mail volumes are twofold. First, with PRM, the Postal Service will be assured of *additional* cost savings (*i.e.* cost savings above and beyond those achieved by using automation-compatible, prebarcoded mail pieces) because reply mail received in large quantities will be able to bypass various postal processing operations, such as the sort to carrier route, the incoming secondary sort, and, in some cases, the incoming primary sort. Second, receiving reply mail in large quantities makes it economically feasible and attractive, to both the recipient and the Postal Service, for the reply mail recipient to assume responsibility for the costly counting, rating, and billing functions normally performed by Postal Service personnel.¹⁶

Mr. Bentley's analyses show that the cost to process and deliver PRM reply letters will be less than the cost of delivering an average First-Class Automation letter. Tr. 21/11088, (Table I) and Tr. 21/11098 (Exhibit BUG-1A). As Mr. Bentley concludes:

Under the Service's proposed rates, PRM will contribute over 6 cents more per piece to institutional costs than First-Class Automation Mail, and over 8 cents more per piece to

¹⁵ In this regard, Postal Service witness Fronk estimated the absolute minimum "breakeven" volume for a PRM recipient at 200,000 pieces per year. USPS-T-32, Workpaper III. As Mr. Bentley shows, however, such a volume estimate is too low in light of the additional administrative costs that individual PRM recipients will incur for establishing appropriate procedures to insure accurate mail counts and postage paid reporting, ongoing costs of maintaining and optimizing such procedures, and the costs associated with satisfactorily completing the Postal Service's periodic sampling and audit procedures. Tr. 21/11084, fn. 3. OCA witness Willette assumed that the breakeven volume for PRM would be at least 400,000 pieces per year. Tr. 21/10702.

¹⁶ USPS witness Needham testifies that the unit cost of having the Postal Service perform the postage due accounting functions is 5.54 cents. See, USPS-T-39 at 18.

institutional costs than an average First-Class letter. Because of the disparity in the relative required unit institutional cost contributions, the logic and fairness for charging PRM a reduced rate of 30 cents becomes abundantly clear.

For all of these reasons, a unit postage rate of 30 cents for PRM is more than justified based on the relevant facts and demonstrated cost savings that will be achieved by this type of mail.

III. The Postal Service's Proposed Accounting Procedure Is Unnecessarily Complicated

Under the Postal Service's PRM proposal, a PRM recipient would be required to "prepay" postage on PRM reply pieces when they are distributed "based on average percentage of envelopes returned, not on the full number of envelopes distributed."¹⁷ Thereafter, when PRM envelopes are returned to the recipient, the Postal Service and the recipient would reconcile the difference between the estimated postage paid and the actual postage due based on actual PRM returns, and adjust the recipient's advance deposit account accordingly. Mr. Bentley's review of the Postal Service's proposal shows that there is no legitimate justification for this unduly complicated accounting procedure.

As Mr. Bentley explains, the existing advance deposit account mechanism for paying postage on BRMAS BRM reply envelopes should provide a guide to resolving this issue. Under the existing accounting system used for BRMAS BRM, BRMAS recipients are not required to make estimates of, and prepay postage on, reply mail return volumes when their reply mail envelopes are distributed. "They are simply

¹⁷ USPS-T-32 at 6.

required to have adequate funds on deposit to cover the cost of postage before the reply mail pieces are delivered to them by the Postal Service.”¹⁸ As Mr. Bentley testifies, a far more workable system would be for the Postal Service to determine initially an appropriate minimum balance on a case-by-case basis and, thereafter if necessary, for the Postal Service and the recipient to adjust the minimum amount based on actual experience. This system would obviate the need to derive complicated estimates of return mail percentages and eliminate the need to reconcile and adjust the PRM recipient’s advance deposit account after-the-fact.¹⁹

As Mr. Bentley also observes, using the BRMAS BRM advance deposit accounting system as a model for PRM service would also have the advantage of smoothing the transition to PRM service for potential PRM recipients since, at least initially, most of the PRM reply mail volume will come from current BRMAS BRM recipients who elect to migrate to the new more flexible PRM service.

Mr. Bentley also recommends that, if the Commission adopts his recommendation regarding the accounting mechanism, the name of this new service be changed to Bulk Automated Reply Mail (“BARM”) to avoid confusion.²⁰

IV. PRM Reply Pieces Should Be Required To Be Addressed To A Post Office Box

Brooklyn Union also recommends that PRM or BARM be required to be addressed to a post office box. The impact of adopting this recommendation will be

¹⁸ Tr. 21/11090.

¹⁹ Tr. 21/11090-91.

²⁰ Tr. 21/11091.

minimal since over 90 percent of BRM is already addressed to post office boxes. See, e.g. Opinion 87-1 at 795 [6143].

Reply mail, especially time sensitive high volume reply mail, is usually addressed to a post office box and/or delivered to the recipient in "firm holdout." This procedure generally results in the recipient receiving his reply mail pieces sooner than they would be if they have to be delivered by a carrier. This procedure also results in substantial cost savings – approximately 4 cents per piece – for the Postal Service.²¹

While the cost savings associated with delivering reply mail pieces to a post office box or firm holdout generally inure to the Postal Service as a matter of course, Mr. Bentley recommends that PRM or BARM recipients be *required*, as a condition of receiving this new reply mail service, to have their reply mail envelopes addressed to a post office box. As Mr. Bentley explains, "[t]his requirement will insure that the Postal Service will, in fact, realize additional cost savings because, *by definition*, all PRM will by-pass the delivery network and will be picked up by the recipient."²²

V. If PRM Is Not Implemented, The existing BRMAS BRM Per Piece Fee Of 2 Cents Should Be Retained

As explained above, Brooklyn Union strongly supports the Postal Service's PRM proposal and stands ready to convert from BRMAS BRM to PRM as soon as the PRM program is implemented. Moreover, the record in this case contains substantial evidence demonstrating the advantages, for the Postal Service, reply mail recipients, and consumers of implementing the flexible PRM program. Nevertheless,

²¹ See, Exhibit USPS-29C, p. 1 (revised October 1, 1997).

²² Tr. 21/11085.

based on the events which transpired following the Commission's adoption of the PAR rate in Docket No. R90-1, Brooklyn Union recognizes that the final outcome of any proposal is difficult to predict. Accordingly, it would be prudent for the Commission to consider what may happen if, for some unforeseen reason, the PRM proposal is not approved, or approved but not implemented.

Currently BRMAS BRM recipients pay a total rate of 34 cents –the regular First-Class Mail rate of 32 cents and a BRMAS per piece fee of 2 cents. Under the Postal Service's proposals in this case, a BRMAS BRM recipient will have two choices:

(1) it can convert to PRM and pay a First-Class Mail rate of 30 cents plus \$1,000 per month for expenses the Postal Service will incur in establishing and maintaining the necessary auditing and accounting procedures; or

(2) the BRMAS BRM recipient can take QBRM service, in which event it will pay a total rate of 36 cents – a First-Class Mail rate of 30 cents and the proposed QBRM per piece fee of 6 cents.

If for some unknown reason, the PRM program is not implemented but the QBRM program is implemented, existing BRMAS BRM recipients could be faced with paying a total rate of up to 39 cents,²³ which would represent a *substantial* 15 percent rate increase –almost four times the overall increase proposed by the Postal Service. The resulting tripling of the BRM fee—from 2 cents to 6 cents—would be extremely unfair to BRMAS BRM recipients.

While Brooklyn Union has not taken any position on the Postal Service's 6 cent per piece rate for QBRM, we do note that the QBRM rate category results from the

²³ The USPS proposed single piece First-Class mail rate of 33 cents plus the proposed

Service's comprehensive proposal for revamping the existing BRM service and extending additional flexibility to reply mail recipients through its PRM proposal. If PRM is not implemented, then the Postal Service's 6 cent per piece fee proposal will be based on a false assumption, namely that the Service's derived unit costs of counting, rating and determining postage for QBRM will increase because a substantial portion of the most efficient BRMAS BRM reply mail volumes will migrate to PRM.

To guard against the possibility that this unfair result could occur, the Commission should approve the 30 cent First-Class Mail rate portion of both the PRM and QBRM proposals, but condition that approval so that the existing BRMAS BRM service option and, specifically, the 2 cent per piece fee will be retained if, for some reason not now evident, PRM is not implemented. In view of the record evidence, a 35-cent rate (2-cent fee above a 33 cent First-Class rate) for BRMAS BRM is clearly exorbitant. As demonstrated by Mr. Bentley, the processing and delivery cost for PRM reply mail pieces, which include high volume BRMAS BRM pieces, is about 3 cents less than the cost for First-Class Automated mail pieces. Even with a per piece fee of only 2-cents, BRMAS BRM pieces would be charged almost 9 cents more than the rate for First-Class Automation mail pieces (35 cents vs. 26.2 cents). Tr. 21/11088, (Table I) and Tr. 21/11098 (Exhibit BUG-1A). Therefore, in order to maintain a fair and equitable rate schedule, the Commission should take some precautions to limit any per piece fee charged for what are now high volume BRMAS BRM pieces to no more than the current per piece fee now being charge for such pieces.

CONCLUSION

For all the foregoing reasons, the Commission should *separately* approve the Postal Service's new Prepaid Reply Mail proposal with the following modifications:

(1) the cumbersome accounting procedure proposed by the Postal Service should be rejected in favor of a simpler mechanism modeled on the existing accounting procedure for BRMAS BRM recipients, and

(2) the Commission should require that prepaid mail pieces be addressed to a post office box, to assure that the Postal Service maximizes the cost savings made possible by this highly efficient type of mail.

Respectfully submitted,

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PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

- (1) PRM reply mail and QBRM both cost less to process than an average First-Class Mail piece because these mail pieces are required to be automation compatible and prebarcoded. USPS-T-23; Tr. 21/11088
- (2) the record demonstrates that PRM can achieve even greater cost savings because this reply mail will, by definition, be delivered in large quantities and, therefore, will bypass sortations normally required of other reply mail operations that do not exhibit a dense delivery pattern. Tr. 21/11084-86.; Tr.21/10762-64.
- (3) uncontroverted evidence shows that at the USPS proposed rates, PRM will contribute over 6 cents more per piece to institutional costs than First-Class Automation Mail, and over 8 cents more per piece to institutional costs than an average First-Class letter. Tr. 21/1088 (Table I) and Tr. 21/11098 (Exhibit BUG-1A).
- (4) in light of all the facts and circumstances, adoption of the proposed 30 cent First Class Mail rate for PRM (and QBRM as well) is reasonable and consistent with the standards of the Postal Reorganization Act, and specifically 39 U.S.C §§ 3622 and 3623, because adoption of the PRM rate category and the PRM and QBRM rates will, among other things, promote establishment of a fair and equitable classification system and a fair and equitable fee schedule by more closely aligning rates with the costs actually incurred by the Postal Service to process these type of reply mail pieces.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

Dated at Washington, D.C., this 1st day of April, 1998.



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